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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,971	08/20/2003	O. Gemare Adkison	21195.00	4999

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EXAMINER

MEISLIN, DEBRA S

ART UNIT PAPER NUMBER

3723

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/643,971	Applicant(s) ADKISON, O. GEMARE	
	Examiner Debra S Meislin	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/20/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election with traverse in the reply filed on November 8, 2004 is acknowledged. The traversal is on the ground(s) that applicant should be entitled to a reasonable number of related embodiments and the search and examination would not produce a burden on the examiner. This is not found persuasive because applicant would be entitled to a reasonable number of species once a generic claim of the elected embodiment is found to be allowable as set forth in the previous office action. None of the claims are generic and no claim has been deemed to be allowable. The search and examination would produce a burden on the examiner since the claims define separate embodiments. Additionally, within a restriction between species, the examiner is not required to set forth differing fields of search.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4 and 5, the scope cannot be determined since the term "standard" is vague and indefinite.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-5 and 8-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Mueller or, in the alternative, Mueller in view of Johnson.

Johnson discloses all of the claimed subject matter except for having a one-piece construction. Mueller discloses a tool having a one-piece construction. It would have been obvious to one having ordinary skill in the art to form the device of Johnson as a one-piece construction for its strength and ease of manufacture as inherently taught by Mueller.

Alternatively, Mueller discloses all of the claimed subject matter except for having differing shaped openings. Johnson discloses differing shaped openings. It would have been obvious to one having ordinary skill in the art to form the device of Mueller with differing shaped openings to allow for the engagement of a workpiece by one opening and the pass-through of a rod or tubing by the other opening thus preserving its strength as taught by Johnson.

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Mueller as applied above, in further view of McCammon et al, Baladez, Ruthrauff Jr, or Foucher.

McCammon et al, Baladez, Ruthrauff Jr, or Foucher each disclose a smaller inner opening area and a seat. It would have been obvious to one having ordinary skill

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in the art to form the inner opening area of Johnson as smaller than the second opening area and with a seat to prevent the pass-through of the workpiece as taught by McCammon et al, Baladez, Ruthrauff Jr, or Foucher.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 703 308-3671. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 703 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

November 17, 2004